



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: October 28, 2015 REPORT NO: 15-093
ATTENTION: Charter Review Committee
SUBJECT: Permanent Rules of Council
REFERENCE: Municipal Code Section 22.0101: Permanent Rules of Council

REQUESTED ACTION:

- 1) Approve revisions to Municipal Code Section 22.0101: Permanent Rules of Council

STAFF RECOMMENDATION:

Approve recommended revisions to the Permanent Rules of Council to reflect current practice, along with other proposed revisions that would provide for better meeting management, efficiency and transparency.

SUMMARY:

Charter Section 14 states that, "The Council shall determine its own rules and order of business." To that end, San Diego Municipal Code Section 22.0101: Permanent Rules of Council outlines the Rules of the Council and the proper procedure and protocol to conduct the business of the City Council, as well as that of the Council Committees and Closed Session meetings.

On July 2, 2015, revisions to the Permanent Rules of Council were proposed to the Charter Review Committee and direction was given to return to committee for final review and evaluation before forwarding for Council consideration. As a result of several meetings with stakeholders, City Attorney memoranda, and Councilmembers' input, the following revisions and clarifications are being proposed. These revisions would update the Permanent Rules of Council to reflect the Council's current practice as well as provide better meeting management, efficiency and transparency.

Rule 2.1: Agenda

The Committee requested the Director of Legislative Affairs to analyze the possibility of having Council meetings be held on Tuesdays from 9:00am- 6:00pm with Closed Session at 1:00pm.

- In reviewing Council Meetings for the last four years, the current Monday and Tuesday schedule has been sufficient to meet the needs of the City. Although

instances of exceeding the allotted time have been reduced dramatically, the number of large meetings necessary throughout the year for land use, environmental appeals, and controversial policy matters has increased. If the Council would change the meeting schedule to one day a week, it would increase the number of Special City Council Meetings that need to be called, and it would be more difficult to coordinate the attendance of Councilmembers, support staff, City staff, and the public for these larger meetings.

- Moving the Closed Session to commence at 1:00pm on Tuesdays is at the discretion of the Council and would only require an amendment to the 2016 legislative calendar to implement.

Rule 2.2: Order of Business

On August 17, 2015, Councilmember Sherman and Councilmember Alvarez issued a memo regarding the order of business for Council meetings. The memo recommends that the Council rearrange the order of business to the following in an effort to avoid disrupting workflow and costing taxpayers staff hours and productivity:

Tuesday at 10:00 a.m.

1. Roll Call
2. Pledge of Allegiance
3. Consent Items
4. Proclamations/Ceremonial Items
5. Special Orders of Business
6. Items pulled from Consent
7. Non-agenda Public Comment

RULE 2.8: Parliamentary Procedure

Currently, in all cases not provided by these Rules, or other ordinance or resolution, Robert's Rules of Order Newly Revised is used as a guide to the Council's conduct. The Council in practicing Robert's Rules had not allowed the Council President or Committee Chair to make a motion for any item before the Council or Committee for consideration. Per the City Attorney's opinion the Council President or Committee Chair holds the same rights and privileges as any other Councilmember, including the right to make a motion. Due to this new development, the Committee should consider whether to leave this section as is and allow the new practice to continue, or to include new language in the Permanent Rules which would follow past practice and not allow the Council President or Chair of a Committee to make a motion.

RULE 6.10: Standing Committee Composition and Responsibilities

The Committee requested the Director of Legislative Affairs work with interested stakeholders to review and clarify the Committees' Areas of Responsibility. These are the proposed areas of responsibility for the Council Committees' which would be more in conformance with the City's organizational chart and give each Committee a better picture of the workload being undertaken by each department.

6.10.1. The Committee on Economic Development and Intergovernmental Relations:

- | | |
|--|---------------------------------|
| -Intergovernmental Relations | -Workforce Development |
| -Interagency and Bi-national Agreements | -Commercial Marketing District |
| -International Trade | -Business Improvement Districts |
| -Foreign Trade Zones | -Tourism Marketing District |
| -Educational Partnerships | -Economic Development |
| -San Diego Regional Airport Authority | -Arts and Culture |
| -Port District | -Incentive Programs |
| -San Diego Convention Center Corporation | -Regulatory Relief Programs |
| -City-wide Economic Development | -Open Data |
| Programs and Strategy | -Civic San Diego |

6.10.2. The Committee on Smart Growth and Land Use:

- | | |
|--------------------------|-----------------------------------|
| -Planning | -Real Estate Assets Department |
| -Land Use | -Walkability |
| -Affordable Housing | -Bicycle Programs |
| -General Plan Amendments | -Community Parking Districts |
| -Transportation Planning | -Historical Issues/Mills Act |
| -Transit Services | -Community Plans |
| -Parking | -Coastal Overlay Zone |
| -Municipal Airports | -ADA Compliance and Accessibility |
| -Land Development Code | |

6.10.3. The Committee on the Environment:

- | | |
|---|--|
| -Clean Water Program | -Public Utilities |
| -Water Management and Policy | -Golf |
| -Energy (Solar, Property Assessed Clean Energy Programs, Green) | -Utility Undergrounding |
| -Multiple Species Conservation Program | -Franchise Agreements |
| -Solid Waste Disposal | -Stormwater Management and Policy |
| -Recycling | -Climate Action Plan and any further Adaptation Plan |
| -Air Quality Standards | -Wastewater Management and Policy |
| -Hazardous Waste | -Independent Rates Oversight Committee |
| -Regional Parks | -Potable Reuse |
| -Open Space | -Recycled Water |

- Graywater
- San Diego County Water Authority
- Wildlife Management

- Environmental Services
- Environmental Policy

The committee's responsibility includes programmatic policy matters related to water, wastewater, storm water and parks.

6.10.4. The Committee on Public Safety and Livable Neighborhoods:

- Police
- Fire
- Neighborhood Parks
- Recreation Programs
- Youth Services
- Senior Services
- Maintenance Assessment Districts
- Community Development Block Grants
- Code Enforcement
- Graffiti Abatement
- Lifeguards

- Veterans Services
- Libraries
- Homeless Services
- Consumer Protection
- Homeland Security
- Volunteerism
- Special Event Permits
- Emergency Medical Services
- Gang Prevention and Intervention
- Citizens Review Board on Police Practices

6.10.5. The Committee on Budget and Government Efficiency:

- Annual Budget
- Financial Reports
- Fees
- Performance Measures and Analytics
- Information Technology
- Enterprise Resource Management
- Purchasing and Contracting
- Managed Competition
- Revenue
- Corporate Partnerships and Development

- Fleet Services
- Risk Management
- Equal Opportunity Contracting
- Prevailing Wage
- Living Wage
- San Diego City Employees' Retirement System
- Personnel
- Civil Service
- Human Resources

6.10.6. The Committee on Infrastructure :

- Capital Improvement Program (CIP)
- Oversight of CIP Streamlining
- Infrastructure Finance
- Regional Transportation Improvement Program
- Asset Management
- Infrastructure Condition Assessment Monitoring and Implementation
- Neighborhood Input on Infrastructure Needs and Priorities

- Storm water Infrastructure
- Public Facilities Financing Plans
- Development Impact Fees
- Facilities Benefit Assessments
- Wastewater Infrastructure
- Water Infrastructure
- City Facilities
- Park Infrastructure
- Multi-Year Capital Improvement Program Plan

- Transportation Infrastructure
- Public Works

- ADA CIP Projects

The Committee's responsibility includes individual infrastructure projects related to water, wastewater, storm water and parks.

6.10.7 The Committee on Rules:

- | | |
|--------------------------------|---|
| -Permanent Rules of Council | -Boards and Commissions |
| - City Charter | -Council Initiated Matters |
| - Open Government | -Communications/Customer Service and Outreach |
| -Elections and Ballot Measures | |
| - Annexations | |

RULE 6.10.7: Rules Committee:

At the July 2, 2015 Committee meeting there was discussion of creating a Special Issues Committee that would take all of the areas of responsibility currently held within the "Additional Responsibilities of the Committee Chaired by the Council President." In further review of the matter, it is proposed that the Committee be a standing committee composed of five Councilmembers with the additional responsibility of "Council Initiated Matters." Currently, there is no way that a Councilmember can propose a policy matter to a committee that he/she does not sit on. It has been opined by the City Attorney's Office that this is not allowed under the Brown Act, as it would create a quorum of the Council. A possible solution would be to have five members on the Rules Committee. Per the City Attorney's office, as long as the committee is comprised of a quorum of the Council, then any Councilmember may participate in that meeting.

Per Rule 7.1, this would only be one tool for the Council to use to initiate Requests for Council Action. Any Councilmember who is the chair or is a member of the appropriate committee could still initiate and review the matter at that committee.

FISCAL CONSIDERATIONS:

None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: This item was reviewed at the July 2, 2015 Charter Review Committee Meeting. The actions taken at that meeting have been incorporated into the final draft proposed, unless otherwise noted in the staff report.



Diana Jurado-Sainz
Director of Legislative Affairs

Attachment:

1. Strike-Out
2. August 17, 2015 Councilmember Sherman and Councilmember Alvarez memo regarding Agenda Order at Council Hearings
3. Action Sheet for Item No. 3 from the July 2, 2015 Charter Review Committee Meeting
4. January 14, 2011 City Attorney Memoranda regarding Application of Ralph M. Brown Act to Five-Member Standing Council Committees and Conduct of Non-Committee Councilmembers Attending at Council Committee Meetings

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2,
DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 22.0101, ALL RELATING TO THE
COUNCIL.

Article 2: Administrative Code

Division 1: The Council

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§22.0101 Permanent Rules of the Council

Rule 1: TIME AND PLACE OF MEETINGS

1.1. Time

The regular weekly meetings of the City Council shall be scheduled over a two-day period as follows:

Monday 2:00 p.m. — 5:30 p.m.

Tuesday 9:00 a.m. — 5:30 p.m.

in accordance with the Council approved legislative calendar, as amended from time to time in accordance with Rule 1.4.

1.2. Time of Adjournment

The time of adjournment each day may be extended by the Council President or by two-thirds vote of the members of the Council beyond the time specified above should additional matters remain on the Council agenda. The Council may hold a duly called special meeting after the adjournment of a regular meeting.

1.3. Place

Regular Council meetings shall be held in the Council Chambers of the City Administration Building, San Diego Community Concourse, in the City of San Diego, California. ~~In addition thereto~~
~~t in accordance with the Council approved legislative calendar, as~~
~~amended from time to time in accordance with Rule [insert rule #].~~
, unless otherwise provided in the legislative calendar. The Council may also hold regularly scheduled ~~the San Diego Civic Concourse~~

~~at the discretion of the Council President as noticed in the agenda,~~
~~as well as~~ night Council meetings starting no earlier than 6:00 p.m.
in the Council Chambers of the City Administration Building or in
various community facilities throughout the City of San Diego.
Such ~~n~~Night Council meetings will be scheduled as determined by
the Council President, with the specific date, time, and location of
each meeting to be established by resolution of the Council. ~~In the~~
~~event a regular meeting shall fall on a legal holiday, the meeting~~
~~may be held on the next business day.~~

1.4. Change of Time and Place

The Council may by resolution, when necessary, change the time
and place of ~~the a~~ regular meeting by amending the legislative
calendar. The resolution shall set forth the circumstances
necessitating such the change. ~~Such resolution shall be published~~
~~once in the City official newspaper at least twenty-four~~ Seventy-
two hours prior to the first meeting to be held pursuant to such
~~change. Twenty-four hours prior an amendment to the meeting to~~
~~be held pursuant to such change~~ legislative calendar, the City Clerk
shall give each Councilmember written notice, personally or by
registered mail, including electronic mail, of any change from the
regular meeting ~~days~~ day, time, and location established by this
~~section~~ the Council in the approved legislative calendar.

1.5. Special Meetings and Notice

- (a) A special meeting may be called at any time by the Council President or by a majority of the members of the Council. The party calling the special meeting shall deliver written notice, personally or by mail-written, including which may be electronic mail, notice to each member of the Council and the Mayor, and to each local newspaper of general circulation, radio, or television station requesting notice in writing.
- (b) ~~N~~Written notice must be delivered personally or by mail, including which may be electronic mail, at least ~~twenty-four~~ 24 hours before the time of ~~such~~ the meeting as specified in the notice.
- (c) The call and notice shall specify the time and place of the special meeting and the business to be transacted. The Council shall consider no other business at the meeting. Special meetings shall be chaired by the Council President.
- ~~(e) — No other business shall be considered at such meetings by the Council. Such special meetings shall be chaired by the President.~~
- (d) ~~Such~~ Written notice may be dispensed with as to any member who at, or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice. ~~Such~~

The waiver may be given by electronic mail. ~~Such~~
Written notice may also be dispensed with as to any
member who is actually present at the meeting at the time it
convenes.

1.6. Emergency Meetings and Notice

In the case of an emergency situation involving matters upon
which prompt action is necessary due to the disruption or
threatened disruption of public facilities, the Council President or a
majority of the Council may ~~hold~~ call a special meeting at the
request of the ~~President or the Mayor~~ or, in his absence, the
Director or Assistant Director of Emergency Services or as further
prescribed in Municipal Code Chapter 5, Article 1, Division 1,
without complying with the 24—hour notice requirement of this
Rule 1.5. For purposes of this paragraph, “emergency situation”
means any of the following:

- (a) Work stoppage or other activity which severely impairs
public health, safety, or both, as determined by a majority
of the members of the Council; or
- (b) Crippling disaster which severely impairs public health,
safety, or both, as determined by a majority of the members
of the Council.

However, the Council President or designee shall notify each local newspaper of general circulation and radio or television station which has requested notice of special meetings pursuant to this Rule ~~shall be notified 1.5~~, by the Council President or designee, telephone one hour prior to the special meeting ~~by telephone~~.

- (a) The Council President or designee, shall exhaust all telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings. ~~In the event that~~ If telephone services are not functioning, the notice requirements of this paragraph shall be deemed waived, and the Council, or designee thereof, shall notify such newspapers, radio stations, or television stations of the fact of the holding of the special meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.
- (b) The Council shall not meet in closed session during a meeting called pursuant to ~~this paragraph~~ Rule 1.6. All special meeting requirements as prescribed in this Rule 1.5 shall be applicable to a meeting called pursuant to ~~this paragraph~~ Rule 1.6, with the exception of the 24--hour notice requirement.

(a)(c) The minutes of a meeting called pursuant to ~~this paragraph,~~
Rule 1.6, a list of persons ~~whom~~ the Council President or
designee, notified or attempted to notify, a copy of the roll
call vote, and any actions taken at ~~such~~ the meeting shall be
posted for a minimum of ten days in a public place as soon
after the meeting as possible.

Rule 2: PROCEDURE FOR COUNCIL MEETINGS

2.1. Agenda

~~A single consolidated agenda covering~~ Agendas for the Monday
and Tuesday regular Council ~~meeting each week~~ meetings, as
provided in the adopted legislative calendar, shall be published
and, when possible, made available on the City's website.

2.2. Order of Business

The order of business for Council meetings ~~shall~~ will generally be
as follows, subject to the discretion of the presiding chair to take
items out of order:

Monday at 2:00 p.m.

1. Roll Call;
2. Invocation and Pledge of Allegiance;
3. Communications;
Mayor, Council, Independent Budget Analyst,
City Clerk, City Attorney Comment;
4. Requests for Continuances by a Councilmember;

5. Adoption Agenda;
 - (a) ~~Consent Items~~
 - (b) ~~Committee Items~~
 - (c) ~~Other Legislative Items~~
 - (d) ~~Noticed Hearings and Special Hearings~~
6. Non-Agenda Public Comment;
- 7.
8. ~~Public Notices;~~
988. Non--Agenda Items;
1099. Adjournment

Tuesday at 9:00 a.m.

1. Roll Call;
2. Public Comment on Closed Session Items
3. Closed Session

Tuesday at 10:00 a.m.

1. Pledge of Allegiance;
2. Proclamations/Ceremonial Items;
3. Non-Agenda Public Comment (30 minutes);
4. Communications
Mayor, Council, Independent Budget Analyst,
City Clerk, City Attorney comment
5. Special Orders of Business;
6. Consent Items;

7. Requests for Continuance by ~~the~~-a Councilmember;
8. Adoption Agenda;
 - (a) ~~Noticed Hearings and Special Hearings~~
 - (b) ~~Unfinished Business from Monday~~
9. Non--Agenda Items;
10. Non-Agenda Public Comment (trailed from morning session));
11. Report Out from Closed Session; and
12. Adjournment.

Night Meetings

When a night meeting is scheduled in accordance with Rule 1.3, the Council President may determine the appropriate Order of Business for ~~both~~-either Monday and-or Tuesday, as applicable.

2.3. Special Orders of Business

2.3.1. ~~Requests to have an item placed on the agenda, under Special Orders of Business may be initiated by any Councilmember and must be submitted in writing to the President. The President shall review such requests and may direct the City Clerk to list the item on the agenda under Special Orders of Business~~Special orders of business may include requests for reconsideration under Rule 2.11.2 and requests to consider items “held in committee” under Rule 6.9.2.

~~2.3.2. A Councilmember may request that the Council President place on the agenda, under Special Orders of Business, an item which has not been denied by all members of a committee in order to have the full Council vote on whether the committee decision should be set aside and the matter reheard by the entire Council as being one involving such wide community and public interest that it requires the attention of the full Council. The request shall be made by a Councilmember within ten days of the date of a committee's decision. A vote to hear the matter by the Council shall void any prior committee decision. The matter shall be considered de novo by the Council.~~

2.3.32. When a matter has been “held in committee” pursuant to Rule 6.9.2, the following rules shall apply:

- (a) The Council President may place on the agenda, under Special Orders of Business, an item that has been “held in committee” in order to have the full Council vote on whether this matter may shall be placed on the a future Adoption Agenda.
- (b) The Council President must place on the agenda, under Special Orders of Business, the written request of a Councilmember to have the full Council vote on whether a matter, which has been

“held in committee,” may be placed on the
Adoption Agenda.

- (c) The Council may, by majority vote, cause a resolution or ordinance which has been “held in committee” to be placed on the Adoption Agenda. A Council majority vote to hear a matter “held in committee” shall void any prior committee decision. The matter shall be considered de novo by the Council.

2.3.34. Discussion during meetings of the Council of items listed on the agenda as Special Orders of Business shall be ~~within the discretion of the President. These items are not debatable~~ limited to whether to place the item on a future Council agenda.

2.4. Adoption Agenda

2.4.1. The Adoption Agenda ~~may~~ shall consist of shall include noticed hearings and ordinances and resolutions placed on the agenda for action by the Council.

2.4.2. Any matter approved for rehearing or consideration by the entire Council shall be placed on the Adoption Agenda in a timely manner, not to exceed 120 days.

2.4.3. Consent Agenda

- (a) The Council President shall identify items that are to be placed on the consent portion of the Adoption Agenda.
- (b) Any Councilmember or member of the public may remove any item from the Consent Agenda by notifying the Council President of his or her desire to address this item.
- (c) The Consent Agenda shall be limited to include those ordinances and resolutions, reported out of a standing committee, for which the law does not require a noticed hearing as described in Rule 2.4.4. Such items may be referred to the Consent Agenda as a time-saving device, where they can be disposed of by a single motion when they are sufficiently routine or non-controversial or have had sufficient prior public discussion.
- (d) Any item considered in committee and reported out with a unanimous affirmative vote of all committee members shall, unless otherwise specified by the Council President, be placed on the Consent Agenda.

- (e) Notwithstanding any other provision of these Rules or the San Diego Municipal Code, no item concerning or relating to required financial disclosure under federal or state law, including but not limited to annual financial reports, Preliminary Official Statements or Offering Documents, or other agreements between the City and other entities supporting the issuance of securities by or on behalf of the City or any City related entity, shall be identified as a consent item on an agenda placed on the consent portion of the Adoption Agenda.

2.4.4. Noticed Hearings

The Noticed Hearings portion of the Adoption Agenda shall consist of hearings upon matters that concern specific land uses, individual property rights, or legislative action which, by law, require individual noticed hearings.

2.5. Non—Agenda Items

The Council may discuss or take action on items of business not appearing on the posted agenda under any of the following conditions pursuant to California Government Code section 54954.2 if:

- (a) An item has been continued by the Council to a date certain from a properly posted agenda at a meeting held five days or less before the date action is taken on the item, or
- (b) Upon a determination by a two-thirds vote of the Council, or if less than two-thirds of the members are present, a unanimous vote of those present that the need to take action arose after the agenda was posted, or
- (c) Upon a determination by a majority of the Council that an emergency exists as defined herein.

The originating official shall follow the existing docketing process and indicate the reason for the request. The Council shall be required to first vote upon the matter of determining the validity of the circumstances giving rise to the request prior to discussion and action upon the item of business. A vote to take up these matters is only required for items under sections (b) and (c) of this section.

2.6. Non-Agenda Public Comment

- 2.6.1.** Every agenda for a regular Council meeting shall provide a period on the agenda for members of the public to address the Council on items of interest to the public that are not on the agenda but are within the jurisdiction of the Council. Non-Agenda Public Comment shall be subject to the exercise of the Council President's discretion for a given agenda.

2.6.2. In order to ensure that the Council has time to consider all agenda items, ~~aNon-aAgenda pPublic testimony~~Comment on particular issues and for each individual speaker will be as follows:

- (a) Each speaker must file a written request (speaker slip) with the Clerk at the meeting at which the speaker wishes to speak. Speaker slips may not be turned in prior to the meeting date or after completion of Non-Agenda Public Comment.
- (b) Each speaker will be limited to two minutes. Speakers may not allocate their time to other speakers. If there are eight or more speakers on a single issue, the maximum time for the issue will be 16 minutes. The order of speaking generally will be determined on a first-come first-served basis, however, priority may be given to speakers who have not addressed the legislative body during Non-Agenda Public Comment at the last regularly scheduled Council meeting.

- (c) Non-Agenda Public Comment is limited to 30 minutes during the morning session of the Tuesday Council meeting per Rule 2.2. Any remaining speakers will be given an opportunity to speak after Council concludes the other agenda items for that day.

2.6.3. Each person desiring to address the Council shall approach the podium, state his/ or her name for the record, state the subject he/ or she wishes to discuss, and state who he/ or she is representing if he/ or she represents an organization or other persons. The Council President shall not permit any communication, oral or written, to be made or read where it does not bear on something of interest to the public which is within the subject matter jurisdiction of the Council.

2.6.4. No discussion or action on any matter of a Non-Agenda Public Comment shall be permitted. Any matter properly raised under this Rule may, if appropriate, be referred by the Council President to the Mayor or to the appropriate Committee for consideration.

2.7. [Reserved]

2.8. Parliamentary Procedure

- (a) In all cases not provided by these Rules, or other ordinance or resolution, Robert's Rules of Order Newly Revised will be used as a guide to the Council's conduct.
- (b) Robert's Rules of Order notwithstanding, a "majority" of Councilmembers means five Councilmembers. A "majority vote" means the affirmative vote of five Councilmembers. A "two-thirds vote" means the affirmative vote of six Councilmembers.
- (c) For committee meeting purposes, "majority" means 50 percent of the members appointed to a committee plus one and "majority vote" means the affirmative vote of 50 percent plus one of the members appointed to a committee.

2.9. Procedure for Referral to Committee or Assignment to Council Docket

2.9.1. The procedures for referral to Committee are as follows:

- (a) The Council President, or the Council by majority vote, shall have the authority to refer a resolution or ordinance to a standing or special issues committee ~~or to the Committee of the Whole~~ for further study and consideration, or to direct the City Clerk to place the resolution or ordinance directly on the Council agenda for adoption.

- (b) The Council President or the Council by majority vote shall have the authority to refer matters, other than resolutions or ordinances, to a standing or special issues committee for further study and consideration.
- (c) Matters assigned or referred to a standing or special issues committee shall be in keeping with the ~~general~~ areas of responsibility and the workload of the committee.
- (d) Matters shall not be referred to more than one committee. Should a committee ~~find that it does not~~ have the jurisdiction to resolve the matter; or if it is unclear under which committee's area of responsibility the matter falls ~~under~~, it may be reassigned to another the appropriate committee by the Council President or a majority of the Council.

2.9.2. The Council President shall place directly on the Council agenda, prior to assignment to any committee, any matter so requested in writing by four members of the Council. Such a matter shall be docketed for hearing at a regularly scheduled meeting of the Council within thirty days thereafter. However, any matter which has been placed directly on the Council agenda without first having been

heard by a committee of the City Council must be referred to the appropriate committee for a hearing when so requested by any Councilmember, subject to a vote of the Council majority or by unanimous consent. This matter shall be scheduled for hearing at a regular meeting of that committee within 120 days unless otherwise directed in the assignment process.

2.10. Procedure for Debate

The following guidelines shall be used in debating any item and may be modified at the discretion of the Council President or by a vote of the Council majority setting different time limits for debates:

- (a) Brief opening statement by the item originator explaining the item (maximum of five minutes).
- (b) Statements may be made by the Independent Budget Analyst, City Attorney, and City Auditor concerning the item (maximum of five minutes each).
- (c) ~~Testimony~~ Comment by members of the public regarding the item.
- (d) Questions and Discussion. The order of recognition of a Councilmember, the City Attorney, or the Independent Budget Analyst desiring to speak shall be determined by the Council President in accordance with the recognition

light panel. Each Councilmember, the City Attorney, and the Independent Budget Analyst shall be allowed the opportunity to speak and shall be limited to five minutes per person. Each Councilmember has the right to obtain an additional three minutes upon request, with the further right of any other member to yield all or a portion of such member's time to another member. Motions by Councilmembers may be made at this time.

- (e) Call for a vote on the main motion or where no motion has been made, a request for a motion.

2.11. Procedure for Reconsideration

2.11.1. A motion ~~for reconsideration of~~ to reconsider any matter ~~must~~ may be entertained ~~on the same day at the same~~ meeting that the matter was voted upon by the Council or at an adjourned session of the same meeting. The motion to reconsider; ~~and per Robert's Rules,~~ must be made by a Councilmember who voted on the prevailing side on the prior vote on the matter.

- (a) Where the matter has not been one on which a noticed public hearing has been held, the Council may approve a motion to reconsider by majority vote. If the motion passes, the Council may re-vote on the matter that same day.

(b) Where the matter is one on which a noticed public hearing has been held, such as those under Council Policy 000-06:

(1) the Council must first suspend these Permanent Rules of Council by a two-thirds vote before it may vote on the request for reconsideration motion to reconsider.

(2) A-The motion to reconsider shall may be approved only by a majority vote of the Council.

(3) If a-the motion to reconsider is approved, the Council shall set a date to rehear the matter, subject to applicable noticing requirements, but within a timely manner not to exceed 120 days.

2.11.2. Notwithstanding Rule 2.11.1, any matter for which a reconsideration is requested at a date later than the same day A request to reconsider a matter at any time after the meeting at which the matter was voted upon must be processed and re-docketed under Special Orders of Business. Once the request to reconsider is docketed:

- (a) Where the matter is one on which a noticed public hearing has been held, the Council must first suspend these Permanent Rules of Council by a two-thirds vote of the Councilmembers before it may vote to direct the City Clerk to docket the request for reconsideration.
- (b) A motion to reconsider ~~shall~~ may be approved only by a majority vote of the Council.
- (c) If a motion to reconsider is approved, set a date to rehear the matter, subject to other applicable noticing requirements.

2.11.3. A vote by the Council ~~on to agenda~~ docket a matter “held in committee” or one relating to a decision of a committee, ~~shall~~ is not be subject to a motion to reconsider and the decision of the Council ~~shall be~~ is final ~~forthwith~~. Any matter approved for rehearing or reconsideration by the entire Council shall be placed on the Adoption Agenda in a timely manner.

2.12. Suspension of Permanent Rules

Any pPermanent rRule of the Council may be suspended temporarily by a vote of two-thirds of the Councilmembers, provided that such temporary suspension shall apply only to the matter under immediate consideration, and in no case shall it extend beyond an adjournment.

2.13. Public Conduct

Notwithstanding any other provision of law, no person shall engage in any conduct that substantially impairs the conduct of a Council meeting, whether ~~cause any disruption of a Council meeting by~~ loud, threatening, or obscene conduct, or otherwise. Any person who engages in such conduct that ~~disrupts, disturbs, or otherwise~~ impedes the orderly conduct of any Council meeting shall, at the discretion of the Council President, be barred from further audience before the Council during that meeting. Any person having been ruled out of order by the Council President shall immediately conform to the orders of the Council President. ~~Any person who refuses when ordered to conform to the rules of conduct may be removed from the place of the Council meeting by order of the~~ Council President.

Rule 3: DUTIES OF COUNCILMEMBERS

3.1. ~~Collective Concurrence~~ Non-Public Meetings Prohibited

Except as authorized pursuant to California Government Code section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a ~~collective concurrence as to~~ discuss, deliberate, or take action to be taken on any item by of business that is within the members subject matter jurisdiction of the legislative body is prohibited.

3.2. Requirement to Vote on Matters Not Involving Personal Interests

No member shall be excused from voting at a Council meeting except on matters involving the consideration of his or her own official conduct or in which his or her own personal interests are involved. *(See California Political Reform Act, Government Code sections 1090, 1126, 81000)*

3.3. Voting After Absence from Council Meeting

Council business shall not be impeded by the absence of a member as long as a quorum is present. Members absent from a Council meeting shall be required to study and review applicable material and tapes before voting thereafter on any such matters.

3.4. Voting on Matters Where a Full Council Vote is Necessary

On those matters where a full Council vote is deemed necessary by the Council or legally required, all testimony-reports and comment shall be taken-heard as expeditiously as possible with a quorum present. The actual vote will be taken by the full Council after absent members have had sufficient time for review of applicable material and tapes.

**Rule 4: SELECTION AND REMOVAL OF THE COUNCIL PRESIDENT
AND COUNCIL PRESIDENT PRO TEM**

4.1. Title

The official title of the Council's presiding officer shall be Council President-of-the-Council. The acting presiding officer's title shall be Council President Pro Tem.

4.2. Selection of the Council President

At the first Council meeting held on or after the tenth day of December, the Council shall select a Council President from one of its members by majority vote of the Council. The Council President shall serve for a term of one year, commencing on the date set forth above, or until a successor is selected and qualified, whichever is later. The Council President may serve more than one term.

4.3. Selection of the Council President Pro Tem

No later than the second meeting of the Council in January of each year, the Council President shall select a Council President

Pro Tem, subject to confirmation by a majority of the Council.

The President Pro Tem shall perform all the duties of the President as prescribed by the City Charter or by ordinance when the President is absent or unable to perform his or her duties. The Council President Pro Tem shall serve for a term of one year, commencing on the date set forth above, or until a successor is selected and qualified, whichever is later. The Council President Pro Tem may serve more than one term.

4.4. Removal of Council President or Council President Pro Tem

At any time, the Council President or Council President Pro Tem may be removed by a majority vote of the Council. In the event of a vacancy in either the position of Council President or Council President Pro Tem, the Council shall fill that vacancy at the next regularly scheduled Council meeting and the successor shall serve for the remaining term of his or her predecessor.

4.5. Procedure When Both the Council President and Council President Pro Tem are Absent or Unable to Perform Their Duties

In the absence of both the Council President and Council President Pro Tem, the City Clerk shall call the Council meeting to order, and the Council shall immediately elect a Chair Pro Tem to preside during that session. Such office is terminated by the entrance of the Council President or Council President Pro Tem, or by the election

of another Chair Pro Tem. If the Council must elect a Chair Pro Tem to hold office beyond the current session, notice must be given prior to the meeting at which such election is held. The Chair Pro Tem shall have the authority of the Council President in the absence of the Council President and the Council President Pro Tem. The procedures for electing the Chair Pro Tem are as follows:

- (a) The Clerk calls the meeting to order, takes roll call, and takes up the item of electing a Chair Pro- Tem.
- (b) The Clerk opens the floor to nominations, calling on Councilmembers in accordance with the recognition light panel.
- (c) When all nominations have been placed on the floor, the Clerk calls on each nominee to make a statement (maximum of three minutes).
- (d) Councilmembers will have five minutes per person for questioning nominees.
- (e) Members of the public may comment regarding the item (maximum of three minutes).
- ~~(f) The Clerk will call for a vote on the main motion or where no motion has been made, a request for a motion.~~

(gf) When there is only one nomination, the nominee may be elected by majority vote or general consent. The Clerk will call for a vote on the main motion or, where no motion has been made, request a motion.

~~(g) When there is only one nomination, the nominee may be elected by majority vote or general consent.~~

(hg) If there are multiple nominations, the Clerk provides a ballot to each Councilmember, who shall vote for the candidate he or she feels to be most qualified and return the ballot to the Clerk. The candidate receiving the highest number of votes (minimum of five) shall be elected as Chair Pro Tem. If no candidate receives a minimum of five votes, the Clerk may limit the slate of finalists to the two candidates who received the highest number of votes. The finalist receiving the highest number votes (minimum of five) shall be elected as Chair Pro Tem shall follow Council Policy 000-13 regarding how to fill a vacancy if the number of nominees is greater than the number of vacancies.

Rule 5: DUTIES OF THE COUNCIL PRESIDENT AND COUNCIL

PRESIDENT PRO TEM

5.1. City Charter Provisions

The Council President shall have such duties as prescribed for the presiding officer in Article XV of the City Charter and such other

responsibilities, rights, and duties prescribed by the Council and authorized by law. The Council President Pro Tem shall perform all the duties of the Council President as prescribed by the City Charter or by ordinance when the Council President is absent or unable to perform his or her duties. When the Council President and Council President Pro Tem are absent or unable to vote, the City Clerk will call for a vote, per Rule 4.5.

5.2. Duties of the Council President

The duties of the Council President shall be to include:

- (a) Chair meetings of the Council and enforce the Rules of Council.
- (b) Call Special meetings of the Council under Rule 1.
- (c) Manage the docketing process and identify which items should be docketed, placed on the consent agenda, or referred to committee.
- (d) Coordinate closed session dockets with Mayor and City Attorney.
- (e) -Select the committee chairs and committee vice-chairs with approval by a Council majority.
- (f) Request information regarding matters before the Council.
- (g) Represent the Council at government and public functions.

- (h) Make appointments, ~~in~~ which governing authority provides be made by ~~confers them on~~ the Council President, in a timely manner.

In the event of a vacancy in the office of Mayor, the Council President shall assume those duties of the Mayor prescribed in City Charter section 265(i).

Rule 6: STANDING AND SPECIAL COMMITTEES

6.1. Creation of Standing Committees

6.1.1. The Council hereby creates ~~six~~-seven standing committees as follows:

- (a) Committee on Economic Development and Intergovernmental Relations,
- (b) Committee on Smart Growth and Land Use,
- (c) Committee on the Environment,
- (d) Committee on Public Safety and Livable Neighborhoods,
- (e) Committee on Budget and Government Efficiency,
and
- (f) Committee on Infrastructure, and
- (g) Committee on Rules.

6.1.2. Each standing committee shall have the responsibility for certain subject matters as set forth in these Rules. In addition, each committee shall have the following responsibility:

- (a) If requested by the Council, to ascertain facts and to annually make recommendations to the Budget Review Committee concerning that portion of the City's operating and capital budget pertaining to matters within the committee's responsibilities.
- (b) To ascertain facts and to make recommendations to the Council concerning that portion of the City's operations pertaining to matters within the committee's responsibilities.
- (c) To hold hearings on matters referred to it.

6.1.3. Each standing committee shall develop an annual work plan and compile a year-end report to be presented to the Council at the end of each year. It is recommended that a committee's work plan be distributed and posted online by March 1 of each year and updated at the mid-year. A mission statement may be included in the work plan.

6.2. Committee Appointments and Membership

- 6.2.1.** For each committee, the Council President shall nominate the committee Chair, vice-chair, and committee members, subject to confirmation by a majority vote of the Council. These appointments shall be made annually and no later than the second meeting of the Council in January of each year. The Council President also may nominate an alternate for each committee subject to Council confirmation. The alternate shall serve only when the committee lacks sufficient members to constitute a quorum for the conduct of business.
- 6.2.2.** The term for each committee member shall be for one year and until a successor is duly appointed and confirmed. The one-year term is renewable each year.
- 6.2.3.** The Council President ~~of the Council~~, with Council approval, shall fill, within a reasonable time, any vacancies that may occur from time to time on any of the standing committees. A committee member appointed to fill a vacancy shall serve for the remainder of the term of his or her predecessor.

6.3. Committee Meetings

6.3.1. The Council shall establish such schedules for regular meetings of the committees as will permit a full attendance of their members without conflict of committee engagements. Such schedules shall be adopted by Council resolution no later than the second regular Council meeting in January.

6.3.2. The Chair, or a majority of the committee, may call a special meeting of the committee by giving appropriate written notice, with a copy to each member of the committee personally or in writing other means at least ~~twenty-four~~ 24 hours prior to the meeting, specifying the purpose of the meeting, the time and place thereof, and the matters to be considered at such special meetings. No matter shall be considered at such special meeting other than that specified in the notice.

6.3.3. Every committee meeting of each standing committee, the ~~Budget Review Committee and the Committee of the Whole~~ and special issues committees shall be open to the public except as otherwise provided for by state law and shall conform to the notice, posting, public comment, and public conduct, and other provisions as provided by these Rules.

6.3.4. A Councilmember who is not a member of a committee made up of less than a quorum of the City Council shall not participate directly or indirectly in any meeting of that committee.

6.4. Committee Quorums and Attendance

6.4.1. A majority of the membership of the committee shall constitute a quorum for the transaction of business. A committee may not conduct business absent a quorum and, if properly convened, must terminate committee proceedings upon the loss of a quorum. The Chair may, under such conditions, continue all remaining matters to the next scheduled committee meeting.

~~(a)~~ ———— A majority of all members constituting the committee, however, shall be required to report a resolution or ordinance, or any matter properly before it, out of committee.

6.4.2. Committee business shall not be impeded by the absence of a member as long as a quorum is present. Members absent from a committee meeting shall be required to study and review applicable material and tapes before voting thereafter on any such matters.

6.4.3. On those matters where a full committee vote is deemed necessary by the Committee or Council, or legally required, all testimony comment shall be taken as expeditiously as possible with a quorum present. The actual vote will be taken by the full committee after absent members have had sufficient time for review of applicable material and tapes.

6.4.4. When and as long as any standing committee lacks sufficient members, including alternates, to constitute a quorum for the conduct of business, the Council President is authorized to act as a voting member of that standing committee.

6.4.5. The Council shall vacate the committee seat of any appointed committee member who is absent from four consecutive scheduled committee meetings of that committee unless the absence thereof is excused by resolution of the Council.

6.5. Conduct of Committee Business

6.5.1. Except as provided in ~~Robert's Rules of Order~~, the Permanent Rules of Council, Robert's Rules of Order shall govern guide the conduct of all committee meetings. Each committee may adopt, by a majority vote of its entire membership, such additional rules, not in conflict with the

Permanent Rules of Council, as it may deem necessary for the conduct of committee business.

6.5.2. No action shall be taken on any ~~measure-matter~~ outside of a duly constituted committee meeting.

6.5.3. Before acting on any matter either originated by the Committee or referred to it, a standing committee shall, through its consultant, make inquiry of the Mayor or appropriate department to determine the fiscal and operational impact of the proposal, and those contacted by the committee consultant shall cooperate fully in providing the information required by the committee in a timely manner, per Charter section 32.1.

6.5.4. The Mayor, the City Attorney, and ~~independent department heads~~ Budget Analyst, or their designees, ~~may~~ shall attend all committee meetings but shall have no vote therein. The Mayor, the City Attorney, and independent department heads, or their designees, shall have the right to take part in discussions on matters properly before a committee relating to their respective offices, and may participate in discussions in such committee meetings when requested to do so by a member of the committee.

6.6. Committee Consultants and Legislative Staff

6.6.1. The Council President shall assign a Director of Legislative

Affairs to assist with managing the Council docket process as provided in Charter section 270(d) - ~~The committee chair for each standing committee shall assign a committee consultant to provide assistance to the committee and other related matters as deemed appropriate.~~

6.6.2. All committee consultants shall be subject to appointment and removal by the chairs of their respective committees.

Committee consultants, in addition to the duties assigned to them by the committee, shall, when directed by the committee chair, prepare an objective informational analysis addressing both the policy and fiscal considerations of any matter that is reviewed by the committee. Such consultant analysis shall be attached to any ~~resolution or ordinance~~ Request for Council Action when it is delivered to the Council President for listing on the Adoption Agenda.

~~**6.6.3.** All committee consultants shall cooperate fully in providing staff assistance to each standing committee during the authorized absence of any committee consultant.~~

6.6.43. Legislative analysts within the Office of the Independent Budget Analyst may be assigned to provide policy analysis and reports on legislation initiated by the Council, provide policy related research and analysis on legislation initiated by the Mayor and independent departments, and conduct any special studies as requested by a majority of the Council.

6.6.54. Matters assigned to legislative analysts will be prioritized as follows: (1) the ~~City Council~~, (2) the Council President, (3) ~~E~~committee Chairs, and (4) individual Councilmembers.

6.6.5. Matters for which the Council or Councilmembers request legal analysis from the City Attorney will be prioritized by the City Attorney as follows: (1) the Council, (2) committees; (3) the Council President, (4) committee chairs, and (5) individual Councilmembers, subject to the City Attorney's duty under Charter section 40 to provide legal services to all City departments and offices and California State Bar ethical duties. Requests for legal analysis from a committee or chair shall be on matters within the area of responsibility of the committee.

6.7. Duties of Committee Chairs

6.7.1. The Chair shall preside at all meetings of the committee.

Whenever the Chair is absent, the vice-chair shall preside.

6.7.2. The Chair shall direct the order of presentation of the arguments for and against matters for consideration by the committee, and shall permit questions to be asked by the various members of the committee in an orderly fashion and in keeping with proper decorum.

6.7.3. The Chair may initiate matters within the ~~subject-matter~~ area of responsibilities of the committee. The Chair shall arrange the agenda for committee meetings and shall set the date for any continued hearings. An agenda for each committee meeting shall be delivered by the Chair or designee to the ~~City Clerk or a Committee Consultant's~~ Assistant at least ~~seventy-two~~ 72 hours prior to the committee meeting.

6.7.4. The Chair has discretion as to whether and when to schedule an item referred to the committee, except that the Chair shall schedule the first standing committee hearing on an item within 120 days of referral, or as otherwise specified, when: (1) the matter has been referred to the committee by a majority vote of the Council; or (2) the issue referred is an ordinance or resolution submitted for approval by the Council.

6.7.5. Within one week following each meeting of a standing committee, the Chair of that committee shall notify the Council of the roll call votes on all actions taken at the standing committee meeting. A draft record of committee actions may be posted online pending approval by the committee.

6.8. Rights and Duties of Committee Members

6.8.1. It shall be the duty of each Councilmember to attend every meeting of every committee of which he or she is a member, and he or she is charged with fulfilling the responsibilities of such committees.

6.8.2. No member shall be excused from voting at a committee meeting except on matters involving the consideration of his or her own official conduct or in which his or her own personal interests are involved.

6.8.3. A Chair or a Committee Member shall have the right to present ideas to a committee for discussion and further development of the concept. Such ideas shall be germane to within the committee's area of responsibility and shall be scheduled pursuant to Rule 6.7.4.

6.9. Committee Hearings on Resolutions and Ordinances

6.9.1. A ~~resolution or ordinance~~ matter shall be reported back to the Council only if the committee makes one of the following recommendations:

- (a) ~~Introduce or introduce the ordinance as amended~~ Approve staff recommendation; or
- (b) ~~Adopt the resolution or adopt~~ Approve staff recommendation as amended;
- (c) Forward to the Council with no committee recommendation upon the affirmative vote of two or more committee members; provided, however that if the committee is made up of 5 members, present and voting, a majority vote is required.

6.9.2. A ~~resolution or ordinance~~ Request for Council Action shall be deemed "held in committee" -if: (1) the committee has not scheduled the item for hearing within 120 days of referral, or as otherwise specified; -or (2) if the committee has not reported the ~~resolution or ordinance~~ Request for Council Action back to the Council within thirty days of the first scheduled committee hearing on the item. The Council President or the Council by majority vote can cause a ~~resolution or ordinance~~ Request for Council Action which has been "held in committee" to be placed

on the Adoption Agenda of the Council docket in
accordance with the provision of Rule 2.3.32.

6.9.3. If the committee recommends that an ordinance be introduced ~~as amended or~~ that a resolution be adopted ~~as amended~~, the originating official shall complete the necessary Request for Council Action. The City Attorney shall prepare ~~the~~ and attach to the approved Request for Council Action any necessary ~~amendments and deliver the amended resolution or ordinance and/or versions to the Committee Chair and the Committee Chair originating official for inclusion in the Request for Council Action.~~ The Committee Chair ordinances, resolutions, and digests. The originating official shall cause the resolution or ordinance, with the digest, to be delivered to the Council President or his/ or her designee for listing on the agenda of the regular Council meetings.

6.9.4. ~~The City Clerk must list items so delivered to it on the Adoption Agenda.~~

6.9.4. ~~The City Clerk or the The Ccommittee Cconsultant's Aassistant shall keep a complete record of the meetings and actions taken by the committee. When the committee takes action on a resolution or ordinanceRequest for Council Action, the vote shall be by roll call vote only. All roll call~~

votes shall be recorded by the City Clerk or the
Committee Consultant's Assistant and that vote shall
be included in the Request for Council Action so that it
shall appear thereafter on the Council agenda in
explanation of the item whenever the item appears on the
Council agenda.

6.10. Standing Committee Composition and Responsibilities

6.10.1. Committee on Economic Development and

Intergovernmental Relations

- (a) The Committee on Economic Development and
Intergovernmental Relations shall be composed of
five-four voting members.
- (b) The Committee on Economic Development and
Intergovernmental Relations shall have
responsibilities that include the following areas of
responsibility: Intergovernmental Relations,
Airports, Port District, Interagency and Binational
Agreements, Workforce Development, City-wide
Economic Development Programs, Enterprise
Zones, International Trade, Arts and Culture,
Business Improvement Districts, City Permits and
Regulations, San Diego Convention Center
Corporation, Economic Development Strategy,

Commercial Marketing District, Educational Partnerships, Living Wage, Foreign Trade Zones, Open Data, Civic San Diego, and Prevailing Wage.

6.10.2. Committee on Smart Growth and Land Use

- (a) The Committee on Smart Growth and Land Use shall be composed of four voting Councilmembers.
- (b) The committee shall have responsibilities that include the following areas of responsibility:
Planning, Land Use, Affordable Housing, General Plan Amendments, Transportation Planning, Transit Services, Parking Planning, Land Development Code, Sale and Lease of Property, Walkability, Bicycle Programs, Community Parking Districts, Historical Issues/Mills Act, and Community Plans.

6.10.3. Committee on the Environment

- (a) The Committee on the Environment shall be composed of four voting Councilmembers.
- (b) The committee shall have responsibilities that include the following areas of responsibility: the Clean Water Program, Water Management and Policy, Energy (Solar, Property Assessed Clean Energy Programs, Green), Multiple Species Conservation Program, Solid Waste Disposal,

Recycling, Air Quality Standards, Hazardous Waste, Regional Parks, Open Space, Public Utilities, Golf, Utility Undergrounding, Franchise Agreements, Stormwater Management and Policy, Climate Mitigation and Adaption Plan (CMAP), Wastewater Management and Policy, Independent Rates Oversight Committee, Indirect Potable Reuse/Direct Potable Reuse, Recycled Water, Graywater, San Diego County Water Authority, and Wildlife Management. The committee's responsibility includes programmatic policy matters related to water, wastewater, storm water, and parks.

6.10.4. Committee on Public Safety and Livable

Neighborhoods

- (a) The Committee on Public Safety and Livable Neighborhoods shall be composed of four voting Councilmembers.
- (b) The committee shall have the responsibilities that include following areas of responsibility: Police, Fire, Neighborhood Parks, Recreation Programs, Youth Services, Senior Services, Maintenance Assessment Districts, Community Development

Block Grants, Code Enforcement, Graffiti

Abatement, Parking Regulations and Enforcement,

Lifeguards, Veterans Services, Libraries, Homeless

Services, Consumer Protection, Homeland Security,

Volunteerism, Special Event Permits, and

Emergency Medical Services.

6.10.5. Committee on Budget and Government Efficiency

- (a) The Committee on Budget and Government Efficiency shall be composed of ~~five~~ four voting Councilmembers.
- (b) The Committee shall have ~~responsibilities that include~~ the following areas of responsibility: the Annual Budget, Financial Reports, Fees, Performance Measures, Information Technology, Enterprise Resource Management, Purchasing and Contracting, Managed Competition, Revenue, Management of City Office Space, Equal Opportunity Contracting, San Diego City Employees' Retirement System, Tourism Marketing District, Personnel, Civil Service, and Human Resources Issues.

6.10.6. Committee on Infrastructure

- (a) The Committee on Infrastructure shall be composed of four voting Councilmembers.
- (b) The Committee shall have ~~responsibilities that include~~ the following areas of responsibility: Capital Improvement Program (CIP), Oversight of CIP Streamlining, Infrastructure Finance, Regional Transportation Improvement Program, Asset Management, Infrastructure

Condition Assessment Monitoring and Implementation, Neighborhood Input on Infrastructure Needs and Priorities, Stormwater Infrastructure, Public Facilities Financing Plans, Development Impact Fees, Facilities Benefit Assessments, Wastewater Infrastructure, Water Infrastructure, City Facilities, Park Infrastructure, Multi-Year Capital Improvement Program Plan, and Transportation Infrastructure. The committee's responsibility includes individual infrastructure projects related to water, wastewater, storm water, and parks.

6.10.7 Rules Committee

- (a) The Rules Committee shall be composed of the five members of the Council. The Council President shall serve as Chair and the Council President Pro Tem shall serve as Vice-Chair.
- (b) The committee shall meet as provided in the legislative calendar adopted by the City Council or the Council President, or in his or her absence, the Council President Pro Tem, or, in the absence of both, the Chair Pro Tem may call a meeting of the Rules Committee in accordance with Government Code section 54954 or 54956.

- (c) This responsibilities of the Rules Committee include the Permanent Rules of Council, City Charter, Open Government, Elections and Ballot Measures, Annexations, Boards and Commissions, Communications, Customer Service, Public Outreach, Council initiated matters as provided in Rule 7.1, and Committee Composition and Responsibilities.
- (d) The Rules Committee shall review the standing committee structure and assigned areas of responsibility every three years.

**~~6.10.7. Additional Responsibilities of the Committee Chaired
by the Council President~~**

- ~~(a) — The standing committee chaired by the Council President shall have additional responsibilities that include the Permanent Rules of Council, City Charter, Open Government, Elections and Ballot Measures, Annexations, Boards and Commissions, Customer Service, Public Outreach, and Committee Composition and Responsibilities.~~
- ~~(b) — The standing committee structure and assigned areas of responsibilities shall be reviewed by the~~

~~committee chaired by the Council President every three years.~~

- ~~(c) — At the discretion of the Council President, any of the above responsibilities may be assigned to the standing committee chaired by the Council President Pro Tem or other appropriate standing committee.~~

6.11. Special Issues Committees: Composition and Responsibilities

6.11.1. Budget Review Committee

- (a) The Budget Review Committee shall be composed of all members of the Council. The Council President-Chair of the Committee on Budget and Government Efficiency shall serve as Chair of this special Committee and the Council President Pro Tem shall serve as Vice-Chair.
- (b) The Council President of the Committee on Budget and Government EfficiencyChair, or, in his or her absence, the Council President Pro Tem, or in the absence of both, the Chair-Council President Pro Tem selected following the procedure in Rule 4.5, may call a special meeting of the Budget Review Committee in accordance with the provisions of California Government Code section 54954 or

54956. Matters may be set for a hearing of the Budget Review Committee by a motion adopted by the Council at a regular meeting.

- (c) This special issues committee shall have the responsibility to analyze, study, and evaluate the estimates of required expenditures proposed for inclusion in the Annual Appropriation Ordinance, and the annual budgets of the San Diego Housing Commission, Civic San Diego, San Diego Convention Center Corporation, the City of San Diego, solely in its capacity as Successor Agency to the Former Redevelopment Agency of the City of San Diego.
- (d) The committee shall have the further responsibility to review and evaluate the tentative Capital Improvements Program. Proposals regarding revenue and taxation shall be referred to the Budget Review Committee.
- (e) Annual budget review meetings shall be set in accordance with California Government Code section 54954, no later than the ten weeks immediately preceding the introduction of the

Annual Appropriation Ordinance subject to the provisions of Council Policy No. 000-02.

- (f) ~~During the annual budget review process, the Budget Review Committee may determine if available funding exists to establish a permanent standing "Special Issues Committee" to meet on an as-needed basis to address short term or special issues.~~

6.11.2. Committee of the Whole

- (a) The Committee of the Whole shall be composed of all members of the Council. The Council President shall serve as Chair and the Council President Pro Tem shall serve as Vice-Chair.
- (b) The Council President or, in his or her absence, the Council President Pro Tem, or, in the absence of both, the Chair Pro Tem selected following the procedure in Rule 4.5, may call a ~~special~~ meeting of the Committee of the Whole in accordance with the provisions of California Government Code section 54954 or 54956. Matters may be set for a hearing of the Committee of the Whole by a motion adopted by the Council at a regular meeting.

- (c) This special issues committee shall have the responsibility to analyze, study and evaluate a proposed resolution or ordinance, or to hold fact finding hearings, on any subject concerning City government that is beyond the scope of responsibility of any one standing committee or is adjudged by the Council President or Council to be more properly a concern of the entire Council.
- (d) Proposals for City action in cooperation with other local government entities including any actions to be taken on a regional basis shall may be referred to the Committee of the Whole.

Rule 7: PROCEDURES FOR RESOLUTIONS AND

ORDINANCES REQUESTS FOR COUNCIL ACTION

7.1. Initiation of Resolutions and Ordinances Requests for Council Action by Councilmembers and Committees

Any member of the Council or a Council committee may initiate a resolution or ordinance by a Request for Council Action for matters within the jurisdiction of the City Council. Committee requests for Council action must be germane to within the subject matter areas of responsibility properly considered by assigned to that committee. Requests for Council Action shall be assigned by the Council President to the Adoption Agenda or referred to

committee in the same way as all other ~~resolutions or~~
~~ordinances~~ matters. A referred Request for Council Action initiated
by a Councilmember who is not a member of the committee with
assigned responsibility for the subject matter, shall be referred to
the Rules Committee.

**7.2. Initiation of ~~Resolutions and Ordinances~~ Requests for Council
Action by the City Attorney or the Mayor**

7.2.1. Requests for Council ~~a~~ Action may be initiated by the City
Attorney or Mayor, or any other independent department
head for any matter that is germane to his or her official
duties as prescribed by law. ~~Resolutions or ordinances~~
~~drafted in accordance with such r~~ Requests for Council
Action shall be assigned by the Council President to the
Adoption Agenda or referred to committee in the same way
as all other ~~resolutions or ordinances~~ matters.

7.2.2. Any Request for Council Action that includes a resolution
or ordinance on which action of the Council is mandatory
under any federal, state, or local law shall be placed on the
Adoption Agenda by the City Clerk without further action
of the Council President. Such matters include, but are not
limited to, the following:

- (a) -Request for a change in zoning;
- (b) —Request for approval of a final map;

- (be) An appeal from any administrative or quasi-judicial decision as permitted under the City Charter, state law, or ordinance of the City; and
- (cd) Any noticed hearing such as is involved in 1911 or 1913 Act proceedings.

~~Such resolution or ordinance shall be prepared and delivered by the City Attorney and a copy thereof shall be delivered by the City Attorney to the Council President for information.~~

7.3. Preparation of Resolution or Ordinance by City Attorney

- 7.3.1.** Upon receiving a properly initiated Request for Council Action, the City Attorney shall prepare a resolution or ordinance as requested and shall affix a City Attorney control number thereto for purposes of identification of the document. The City Attorney shall also prepare a digest where required showing any changes in the existing law which are proposed by the resolution or ordinance matter.

7.3.2. (a) Pursuant to City Charter sections 280-(a) and (b₇), whenever a resolution or ordinance is not subject to a mayoral veto, the City Attorney shall, before signing off as to the form or correctness of that document, indicate the Mayor's inability to veto that measure within the body of that resolution or ordinance.

(b) The City Attorney will indicate within the body of the resolution or ordinance whether a two-thirds vote of the Council is required for its passage. Failure to indicate the two-thirds vote requirement will not invalidate a resolution or ordinance otherwise passed in accordance with law.

7.3.3. The City Attorney shall ~~then cause to attach~~ the completed document, ~~with digest attached, to be delivered and digest, if required, to the official who originated the Request for Council Action.~~ If more than one The originating official signed is responsible for ensuring the completeness of documentation accompanying the Request for Council Action.

7.3.4. If changes are made to the resolution or ordinance after the Request for Council Action has been submitted, the City Attorney shall ~~cause the completed document,~~ provide a corrected copy of the resolution or ordinance with ~~digest attached, to be delivered~~ a strike-out or memorandum

explaining the changes to the first signatory. It will be the responsibility of the originating official to ensure the completeness of documentation accompanying the resolution or ordinance Council President for inclusion in backup information.

7.4. Delivery of Resolution or Ordinance to the Council President

7.4.1. The official who originated the Request for Council Action shall cause the resolution or ordinance, with attached digest, and any other supporting materials, prepared in accordance with this Rule 7, to be delivered-submitted to the Council President or his/ or her designee no later than 10:00 a.m. on Wednesday for listing on the agenda of a regular Council meeting to be held, at the discretion of the President, the second or third week after receipt of the Request for Council Action within a timely manner not to exceed 120 days or as soon as necessary to comply with any legal deadline.

7.4.2. Ordinances or resolutions that are reported out of committee in accordance with Rule 6.9 shall be delivered to the President or his/her designee by the Committee Chair by 10:00 a.m. on Wednesday for listing on the agenda of a regular Council meeting to be held, at the discretion of the

~~President, the second or third week after receipt of the
Request for Council Action.~~

7.5. Preparation of the Council Agenda (Docket Management)

7.5.1. Only those ~~resolutions or ordinances~~ Requests for Council Action that have been prepared and ~~delivered~~ submitted in accordance with these Rules shall be listed on the agenda. Each ~~resolution or ordinance~~ Requests for Council Action so prepared and so ~~delivered~~ submitted shall be reviewed and shall be assigned to the Adoption Agenda to one of the categories enumerated below:

- (a) Consent Items;
- (b) ~~-~~Noticed Hearings; or
- (c) Other Discussion and Legislative Items.

7.5.2. In assigning an ~~ordinance or resolution item~~ Request for Council Action to one of these categories, preference should be given to listing purchasing items and routine business ~~resolutions~~ as Consent Items on the Adoption Agenda.

7.5.3. In assigning every other ~~ordinance or resolution~~ Request for Council Action to one of these categories, it is preferable to refer it to a standing committee or the Committee of the Whole when it would do any of the following: (1) support or oppose state or federal legislation; (2) result in a

substantial expenditure of City money; (3) result in a substantial loss of revenue to the City; (4) result in a substantial reduction of expenditures of City money by reducing, transferring or eliminating any existing responsibilities of the City; (5) appropriate money; or (6) add to, modify, or abolish existing City policy.

7.6. Preparation and Delivery of Regular Agenda to Clerk

7.6.1. The agenda prepared as above and any items under Special Order of Business, together with all resolutions and ordinances-Requests for Council Action prepared and delivered as required by Rule 7, shall be delivered by the Council President to the City Clerk by 2:00 p.m. each Wednesday for listing on the agenda of the regular meeting of the Council as indicated by the Council President pursuant to Rule 7.4.1, but no sooner than the meeting to be held during the week following the next succeeding week and the City Clerk shall so list the items. Additionally, any item may be set for a time certain hearing.

7.6.2. When preparing the docket, the Council President shall identify items to be placed on the eConsent aAgenda, nNoticed hHearing aAgenda, and other items for discussion. Per City Charter section 280(b), the City Clerk shall indicate on the agenda which ordinances, resolutions

and other matters are not subject to mayoral veto and which items require a two-thirds vote. Failure to indicate either will not invalidate a resolution or ordinance otherwise passed in accordance with law.

7.6.3. The City Clerk shall arrange the agenda in proper printed format and cause the agenda to be prepared and distributed for public notice by 10:00 a.m. each Wednesday preceding the regular meetings of the Council to be held the following week. All supplemental agenda materials shall be delivered to the City Clerk by 2:00 p.m. each ~~Wedne~~Thursday and shall be posted in accordance with California Government Code section 54954.3.

7.6.4. Notwithstanding the above provisions, there may be listed on the Adoption Agenda an ~~ordinance or resolution~~ Request for Council Action that has been initiated as required by Rules 7.1 and 7.2, but for which an ordinance or resolution has not been ~~prepared and delivered~~ provided in accordance with Rules 7.3 and 7.4, if the City Attorney ~~certifies in writing~~ provides written notification to the Council President that an ordinance or resolution will be prepared and delivered by the City Attorney to the City Clerk prior to the time the item is considered on the Adoption Agenda.

7.7. Preparation and Delivery of Supplemental Agenda to Clerk

7.7.1. Notwithstanding the above provisions, the Council, at a regular meeting, or the Council President may direct the City Clerk to list ~~A resolution or ordinance~~ an item on a supplemental agenda for the next regular Council meeting if the City Attorney ~~certifies~~ provides written notice to the City Clerk that an ordinance or resolution has been prepared or will be prepared and delivered to the City Clerk prior to the time the item is considered at the regular Council meeting.

7.7.2. Notwithstanding any other provision of these Rules or the San Diego Municipal Code, no item concerning or relating to required financial disclosure under federal or state law, including, but not limited to, Preliminary Official Statements or Offering Documents, or other agreements between the City and other entities supporting the issuance of securities by or on behalf of the City or any City related entity, shall be docketed as a supplemental item on any agenda, and all such matters must be prepared as required by Rule 7.

7.7.3. The legislative authority of Councilmembers in regard to drafting documents to be considered by the Council shall be preserved and not limited; provided, however, that all

resolutions, ordinances, and other legal documents regarding and in support of matters listed on the Council agenda for Council action shall be prepared in final form by the City Attorney and bear the City Attorney's signature or approval as to form and legality required by Charter section 40.

7.8. Posting, Notice, and Items for Consideration

At least ~~seventy-two~~ 72 hours before the regularly scheduled meeting of the Council, the City Clerk shall post the agenda with a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the meeting and shall be posted in a location freely accessible to the public. No discussion or action shall be taken on any item not appearing on the posted agenda, except as otherwise provided in Rule 2.5.

~~Rule 8: Noticing and Conduct of Closed Sessions~~ NOTICING AND

CONDUCT OF CLOSED SESSION

The Council may impose upon itself requirements which allow greater access to its meetings than prescribed by the minimum legal standards set forth in the California Open Meeting Law, commonly known as "the Brown Act" (California Government Code sections 54950-54963).

8.1. Form and Manner of Notice

- (a) All closed session items shall appear on a Closed Session Agenda or Supplemental Closed Session Agenda, which agenda may be separate and distinct from the City Council's regular meeting agenda, but which shall be made available to the public and distributed concurrent with the regular meeting agenda of the City Council, ~~which shall meet the 72-hour public-noticing requirement per Rule 7.6.3.~~ A line item shall appear on the regular Council docket indicating that closed session items will be appearing on a separate Closed Session Agenda. The closed session items will be appearing on a separate Closed Session Agenda.

The Closed Session Agenda shall clearly indicate the time and place that open session discussion of closed session items is scheduled to occur. The Closed Session Agenda shall further indicate the time and place the scheduled closed session will occur.

- (b) All Closed Session Agenda items shall contain descriptions which can be easily understood and informative to the public in a meaningful way, unless to do so would harm the City and public interest by disclosing facts that are not known to the adverse party in any litigation or negotiations.

Meaningful means: clear and specific enough to alert a person of average intelligence and education whose interests are affected by the item that he or she may have a reason to attend the meeting or seek more information on the item. The description should be concise and written in plain, easily understood words.

(c) For authorized exceptions to open meetings, the following minimum noticing and disclosure requirements, as may be amended, shall apply:

- (1) Significant Exposure to Litigation: California Government Code section 54956.9~~(b)~~.
- (2) Conference with Legal Counsel – Existing Litigation: California Government Code section 54956.9~~(a)~~.
- (3) Conference with Legal Counsel – Initiation of Litigation: California Government Code section 54956.9~~(e)~~.
- (4) Conference with Real Property Negotiators: California Government Code section 54957.1~~(a)~~(1)54956.8.
- (5) Conference with Labor Negotiators: California Government Code section 54957.6.

- (6) Threat to Public Services or Facilities: California Government Code section 54957(a).
- (6) Public Employee Performance Evaluation: California Government Code section 54957(b)(1).
- (7) Public Employee Appointment: California Government Code section 54957(b)(1).
- (8) Public Employee Discipline/Dismissal/Release: California Government Code section 54957(b)(1).
- (d) In open session, before public comment or Council discussion of any closed session item, the City Attorney or appropriate staff ~~shall~~ may provide an oral update or progress report on matters under litigation, real property negotiations, or employee unit bargaining if requested by a member of the Council.

8.2. Public Participation

The public shall have the opportunity to directly address the Council on any closed session item on the agenda, prior to the Council questions and discussion on the item and after the oral report by the City Attorney or appropriate staff ~~adjourning~~ reconvening in Closed Session.

8.3. Council Questions and Discussion in Open Session

At the regular or special meeting of the Council, the Mayor and Councilmembers shall have the opportunity to may discuss the basis for convening into closed session, ask questions, and respond to questions from the public.

8.4. Transcription of Closed Sessions

All closed sessions shall be transcribed by a court certified reporter. -All transcripts shall be retained.

8.5. Reporting of Closed Session Results in Open Session

(a) After every closed session, a public report is required as set forth herein. The Council shall adjourn from closed session, reconvene in open session, and publicly report such final action and the vote or abstention of every member present:

- (1) Approval of an agreement concluding real estate negotiations: California Government Code section 54956-87.1(a)(1).
- (2) Approval given to the City's legal counsel to defend, or seek, or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation: California Government Code section 54956-97.1(a)(2).

- (3) Approval given to its legal counsel of a settlement of litigation at any stage prior to or during a judicial or quasijudicial-proceeding (pending litigation): California Government Code section 54956.97.1(a)(3).
 - (4) Final disposition of any claim: California Government Code section 54957.1(a)(4).
 - (45) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee: California Government Code section 54957.1(a)(5).
 - (56) Approval of an agreement concluding labor negotiations with represented employees which is a final and has been accepted or ratified by the other party: California Government Code section 54957.1(a)(6).
- (b) Reports that are required to be made pursuant to this section may be made orally or in writing. The City shall provide to any person who has submitted a written request to the City within ~~twenty-four~~ 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to California Government Code

sections 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that an oral summation of the substance of the amendments has been made for the benefit of the document requester or any other person present and requesting the information.

- (c) The documentation referred to in Rule 8.5(b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.
- (d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

8.6. Litigation Log

The City Attorney, in coordination with the City Clerk, shall provide the Council with a weekly listing of all litigation filed against or by the City of San Diego, its officers or employees, any

City boards, redevelopment agencies, and commissions (collectively "the City") that has been served upon the City. The list shall include the court in which the case was filed, the name of the litigants, the date filed, and the Court case number. A copy of the list shall be kept on file in the Office of the City Clerk and available for members of the public. The list shall be provided every week, and shall report on cases served the immediate preceding week.

Rule 9: TEMPORARY RULES

The Council President may, at any time, place on the Adoption Agenda a resolution establishing a temporary rule. Upon adoption by the Council, the temporary rule shall have the effect, for the time being, of a standing rule. If such temporary rule is in conflict with a Permanent Rule, it shall supersede such Permanent Rule only for the day on which it was adopted or for such greater period as may be specified in the temporary rule.

Rule 10: AMENDMENT OF PERMANENT RULES

No Permanent Rule of the Council shall be amended except by ordinance adopted by the Council. No such ordinance shall be considered by the Council until it has been referred to the standing Committee on Rules chaired by the Council President.

Rule 11: EXISTING PROCEDURES PRESERVED

The procedures of the Council contained in the Council Policy Manual shall be continued in full force and effect.

(Amended 6-21-2011 by O-20066 N.S.; effective 7-21-2011.)

(Amended 11-1-2011 by O-20109 N.S.; effective 12-1-2011.)

(Amended 1-10-2012 by O-20121 N.S.; effective 2-9-2012.)

(Amended 1-8-2013 by O-20242 N.S.; effective 2-7-2013.)

(Amended 11-28-2013 by O-20316 N.S.; effective 11-28-2013.)

(Amended 1-13-2015 by O-20452 and O-20453 N.S.; effective 2-12-2015.)

§22.0102 Publication of Ordinances or Resolutions

Within fifteen (~~15~~) days after final passage of any ordinance or resolution of a general nature, the City Clerk shall cause the same to be published once in the "City Official Newspaper" as defined by Ssection 113 of the Charter; provided, however, that when any ordinance or resolution is, by the City Charter, or by any general law, the provisions of which have been adopted by the Charter, required to be published more than once, the City Clerk shall cause such ordinance or resolution to be published in the manner and as often as is so required.

(Amended 4-17-1989 by O-17277 N.S)

PMD:ccm
October 28, 2015
Or.Dept:CD-1
Doc. No.: 1159331



City of San Diego

MEMORANDUM

COUNCILMEMBER SCOTT SHERMAN, COUNCIL DISTRICT SEVEN
COUNCILMEMBER DAVID ALVAREZ, COUNCIL DISTRICT EIGHT

DATE: August 17, 2015

TO: Council President Sherri Lightner
Honorable Councilmembers

FROM: Councilmember Scott Sherman

Councilmember David Alvarez

SUBJECT: Agenda Order at Council Hearings

In hopes of making the Council agendas run more smoothly and efficiently, we offer the following suggestions for the order of items at regularly scheduled meetings.

Currently, Tuesday meetings open with Roll Call, the Pledge of Allegiance, and Proclamations/Ceremonial Items. We appreciate that the first two items are very short, and agree that Proclamations should be heard early in the meeting so the honorees have a level of certainty as to when they should appear in Council Chambers.

After these items, Non-Agenda Public Comment is taken. While this is limited to thirty minutes before the noon recess, it nonetheless requires City staff waiting for the Consent Agenda to be heard to be away from their duties. As most Consent Items do not require staff participation, this means that staff could be waiting more than an hour (for Proclamations and Non-Agenda Public Comment) just to be dismissed when their items are voted on consent.

If items are pulled off consent by either a member of the Council or the public, staff may need to wait throughout the morning session for up to thirty minutes of Non-Agenda Public Comment, and potentially return in the afternoon to answer a few questions. This disrupts workflow and costs our

taxpayers in wasted staff hours and productivity. Consider that 25 staff members at an average salary of \$50,000 waiting 30 minutes will cost the City more than \$3,000 per week.

To address these issues, we propose the following:

1. Amend Permanent Rules of Council Section 2.2 (Tuesday) to hear consent items (6) after Roll Call (1) and Pledge of Allegiance (2) in order to release staff whose items do not engender community or Council discussion within moments of the start of the meeting.
2. Follow Roll Call, Pledge of Allegiance, and Consent Items with Proclamations and Ceremonial Items (3) to provide certainty for honorees and be respectful of their time.
3. Create a new item category to encapsulate Consent Items pulled from the Consent Agenda (X) and hear that category directly following Proclamations and Ceremonial Items to more efficiently release staff who must stay to address Council or community questions.
4. Hear Non-Agenda Public Comment (4) after Consent Items pulled from the Consent Agenda, with all other Tuesday items heard according to the existing rules.

We look forward to working with your office and the City Clerk to implement these suggestions and review any other efforts to increase staff productivity and meeting efficiency.

Cc: Honorable Jan Goldsmith, City Attorney
Scott Chadwick, Chief Operating Officer
Elizabeth Maland, City Clerk
Diana Jurado-Sainz, Director of Legislative Affairs

COMMITTEE ACTION SHEET

COUNCIL DOCKET OF _____

☐ Supplemental ☐ Adoption ☐ Consent ☐ Unanimous Consent

R -

O -

Amendments to Municipal Code Section 22.0101: Permanent Rules of the Council

☒ Reviewed ☐ Initiated By CR on 7/2/15 Item No. 3

RECOMMENDATION TO:

Motion by Councilmember Cate requesting that the ordinance and strike-out with all of the requested changes, additions, and clarifications considered and summarized below be brought back to the Charter Review Committee for final review within 60 days.

- Rule 2.1 Request to analyze the possibility of having Council meetings be held on Tuesdays from 9:00 a.m. – 6:00 p.m. with Closed Session at 1:00 p.m.
- Rule 2.3 Strike rule from the Permanent Rules of Council.
- Rule 4.5 Add clarification on responsibilities of the Chair Pro Tem to be the same as the Council President in the absence of the Council President and Council President Pro Tem.
- Rule 6.6 Request that the City Attorney's office work with the Director of Legislative Affairs to prepare language for review by the Committee.
- Rule 6.9.1 Change to clarify that in the event of a tie vote the matter shall be forward to Council without Committee recommendation.
- Rule 6.10 Request the Director of Legislative Affairs to work with interested stakeholders to review and clarify the Committees' Areas of Responsibility.
- Rule 6.10.7 Create a Special Issues Committee that would meet on an as needed basis to cover the Areas of Responsibility currently held under the "additional responsibilities of the Committee Chaired by the Council President."
- Rule 7.3 Agree with a strike-out being prepared for any "Corrected Copy" resolutions or ordinances submitted to the Council President.
- Rule 7.3.2 Agree with directing the City Attorney to clarify within the resolution or ordinance if 6 votes are required for an item.
- Rule 7.6 Agree with moving the supplemental deadline to Thursday at 2:00 p.m.
- Rule 8 Requested representatives from the Mayor's Office, City Attorney's Office, and the Council President's Office meet to discuss a process to coordinate the closed session agenda per Charter Section 270(d).
- Rule 1.6 Add clarification that the Council majority can call an emergency meeting if the Council President and Mayor are unavailable to call such meeting. Additionally add reference to Municipal Code Section 5.01 regarding Public Emergency Procedures.
- Rule 6.10.5 The Committee on Budget and Government Efficiency shall be composed of four members and clarify all Council Committees shall consist of 4 members.
- Rule 2.4.2 Add language "not to exceed 120 days."
- Rule 2.11.1 Change "day" to "meeting."
- Rule 3.4 Add language to read, "as deemed necessary by the Council or as legally required."

Second by Councilmember Emerald.

VOTED YEA: Lightner, Cate, Kersay, Emerald

VOTED NAY: None

NOT PRESENT: None

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

COUNCIL COMMITTEE CONSULTANT

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over a horizontal line.

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: January 14, 2011

TO: City Councilmembers

FROM: City Attorney

SUBJECT: Application of Ralph M. Brown Act to Five-Member Standing Council Committees and Conduct of Non-Committee Councilmembers Attending at Council Committee Meetings.

INTRODUCTION

The Council has established five standing Council Committees, which hold hearings, ascertain facts, and make recommendations to the Council. San Diego Charter section 270(e); San Diego Municipal Code (SDMC) § 22.0101.5, Rules 6.11.1(b)-(e), 6.11.2(c)-(e), 6.11.3(c)-(e), 6.11.4(c)-(e), and 6.11.5(c). Two Committees are composed of five Councilmembers; three are composed of four members.¹ Each Committee agenda reflects the names of all Committee members, providing notice that either four or five members of the Council are expected to attend the meeting, and the agenda items under discussion. Five Councilmembers constitute a quorum (a majority) of the Council.

We review the appropriateness of standing Council Committees composed of a quorum of the City Council under the Ralph M. Brown Act (Cal. Gov't Code §§ 54950-54963)² (the Act), concluding that the Act does not prohibit such standing committees, and does not require those meetings to be separately noticed as Council meetings, so long as the Committee agenda provides notice that a quorum of Councilmembers meets as the Committee. We also review the level of participation the Act permits at Council Committee meetings for visiting

¹ The five-member committees are the Committee on Rules, Open Government and Intergovernmental Relations (SDMC § 22.0101.5, Rule 6.11.1) and the Committee on Budget and Finance (Rule 6.11.5). The four-member committees are the Committee on Land Use and Housing (Rule 6.11.2), the Committee on Natural Resources and Culture (Rule 6.11.3), and the Committee on Public Safety and Neighborhood Services (Rule 6.11.4). We believe the first three-member Council Committee was established in 2005; four-member Committees were created later that year.

² Unless otherwise indicated, all future section references are to the California Government Code.

Councilmembers, concluding the level of participation depends on the size of the Committee. For example, at properly noticed meetings of Committees composed of a quorum of the Council, visiting Councilmembers may attend and participate as would any member of the public, and should sit with the public. At Committee meetings composed of less than a quorum of the Council, visiting Councilmembers may attend only as silent observers, when *their attendance creates a quorum*. When their attendance *does not create a quorum*, they may attend and participate as members of the public.

DISCUSSION

I. INTERPRETING THE ACT

By its notice and open meeting requirements, the "Act . . . serves to facilitate public participation in all phases of local government decisionmaking and to curb misuse of the democratic process by secret legislation of public bodies . . ." *Epstein v. Hollywood Entertainment District II*, 87 Cal. App. 4th 862, 868 (2001). Established case law and voter enactments require courts to interpret the Act liberally in favor of openness in conducting public business. *Shapiro v. San Diego City Council*, 96 Cal. App. 4th 904, 917 (2002); Cal. Const. art. I, § 3(b)(2); San Diego Charter § 216.1(b)(2).

II. THE ACT PERMITS QUORUM OR LARGER STANDING COMMITTEES OF THE CITY COUNCIL

Both the City Council and Council Committees are considered "legislative bodies" for purposes of the Act. § 54952(a) and (b). "Ordinarily, a committee is composed of less than a quorum of the legislative body that has created it." *Adler v. City Council*, 184 Cal. App. 2d 763, 771(1960). The concept of a less-than-quorum meeting exception to the Act's requirements has been significant in the Act's history. *See discussion, Freedom Newspapers v. Orange County Employees Retirement System*, 6 Cal. 4th 821, 829-834 (1993) (interpreting former § 54952.3, exempting less-than-quorum advisory committees from the Act); *also Henderson v. Los Angeles City Board of Education*, 78 Cal. App. 3d 875, 881-883 (1978).

Dealing with this historical norm, the Legislature amended section 54592, effective April 1, 1994, to clarify that sub-quorum *standing committees* of legislative bodies were included within Act requirements, although sub-quorum *temporary* advisory committees were exempt from Act requirements. *Freedom Newspapers*, 6 Cal. 4th at 832, n 11. Although this 1994 legislative change imposed the Act's requirements upon sub-quorum standing committees of legislative bodies, the Act places no upper membership limit upon standing committees.

Accordingly, we conclude that San Diego's procedure of establishing some or all of its standing Council Committees with five Councilmembers is permissible under the Act.

III. FIVE-MEMBER COUNCIL COMMITTEES NEED NOT SEPARATELY NOTICE MEETINGS AS CITY COUNCIL MEETINGS

Whether the Act requires the City Council's five-member Committees to provide separate notice that they are also meeting as the City Council requires a more complicated analysis. Under our facts, we believe it does not.

The Act itself exempts certain gatherings of majorities of legislative bodies from its notice requirements. In particular, section 54952.2(c)(4) exempts "the attendance of a majority of the members of a legislative body at an *open and noticed meeting of another body* of the local agency, . . . provided that a majority of the members do not discuss among themselves, *other than as part of the scheduled meeting*, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency." § 54952.2(c)(4) (emphasis added).

We are aware the California Attorney General (Attorney General) interpreted this section in a 1996 opinion, addressing *sub-quorum* standing committees, the historical norms under the Act. 79 Op. Cal. Att'y Gen. 69, 73-74 (1996)(1996 opinion). The Attorney General opined the section did *not* permit the attendance of a fourth member of a seven-member board at a meeting of a three-person standing committee of the board, reasoning that the presence of the additional non-member at the committee meeting *created* a quorum of the larger legislative body, without providing notice to the public of that meeting. "Such result would undermine the Legislature's purposes in requiring notice, a posted agenda, and public participation prior to the resolution of a matter by a legislative body." *Id.* at 75. A 1998 City Attorney Report concluded this analysis did "not directly apply to The City of San Diego, because standing committees are made up of a majority of Councilmembers. Thus, the attendance of an additional Council member at a fully attended committee meeting would not create a Council quorum." 1998 City Att'y Report 616, 617 (98-18; Sept. 3, 1998).

We agree with our 1998 Report's conclusion insofar as it applies to five-member Council Committee meetings. The meeting agendas for the five-member Council Committees, filed in advance as required, list the names of the five Councilmembers who compose the Committee. The public may participate fully at each Committee meeting. The five-member committees have existed since at least 1974, are codified in the Municipal Code, and Councilmembers are appointed annually by publicly-enacted Council resolutions. We believe the meeting notices for these five-member Council Committees provide ample notice to the public that a quorum of the City Council is meeting, allowing the public to attend and be heard, and alleviating concerns raised in the 1996 opinion on this subject.³

³We part company with the 1996 opinion to the extent it inserts an additional requirement into the statutory language, not placed there by the legislature. The Attorney General also opined section 54952.2(c)(4) was "intended to govern the situation where a majority of the members of a legislative body attend a meeting of another body of the local agency *that is composed of persons different from the legislative body members themselves.*" *Id.* (emphasis added.) The Attorney General's interpretation that the "meeting of another body" required the other body to be composed of *different* persons from the legislative body members was supported by no citation to legislative history,

Moreover, we believe the plain language of section 54952.2(c)(4) applies to the five-member Council Committee meetings. That section exempts from the Act's notice and other requirements the attendance of a majority of the members of a legislative body "at an open and noticed meeting of another body of the local agency." A standing committee of the Council is "another body" of the local agency, and members of the legislative body are expected to "discuss among themselves, . . . as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency." § 54952.2(c)(4).

We have found no California case holding that noticed and open meetings of a *quorum or larger committee* of a legislative body must *also* notice the Committee meeting as a meeting of the parent body. However the Wisconsin Supreme Court, interpreting a similar open meeting law has indicated in dicta that a separate notice for such meeting would not be required. *State ex rel. Badke v. Village Board of the Village of Greendale*, 173 Wis. 2d 553, 578-579, 494 N.W.2d 408, 418 (1993) (separate notices for both bodies' meetings not required where quorum of one body constitutes the second governmental body.)

This appears to be a reasonable and logical interpretation, and entirely consistent with the language of section 54952.2(c)(4) as applied to quorum-or-larger standing committees. Accordingly, we conclude that so long as they meet the Act's other requirements, five-member (or larger) standing Committee meetings of the City Council are exempt from the requirement they also be separately noticed as City Council meetings.

IV. THE CONDUCT OF VISITING COUNCILMEMBERS AT COMMITTEE MEETINGS DEPENDS ON THE SIZE OF THE STANDING COMMITTEE

The Legislature acted swiftly after the Attorney General's 1996 opinion, enacting section 54952.2(c)(6). The intent of section 54952.2(c)(6) was "to permit non-members to attend committee meetings but not participate." Sen. Bill 138 Senate Floor Bill Analysis, May 22, 1997. Section 54952.2(c)(6) exempts from the Act's requirements:

The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

The Attorney General reviewed section 54952.2(a)(6) in 1998, interpreting the limits of an observer's behavior at a standing committee meeting. 81 Op. Cal. Att'y Gen. 156 (1998) (1998

statutory construction analysis, or case authority. Moreover, the function of a court in construing any statute, including the Act, 'is simply to ascertain and declare what is in terms or in substance contained therein, *not to insert what has been omitted*, or to omit what has been inserted.' Cal Code Civil Proc. § 1858; *Shapiro v. Board of Directors of Centre City Development Corp.*, 134 Cal. App. 4th 170, 180 (2005) (emphasis added). No court has ruled on the correctness of this 1996 interpretation, yet it is repeated as a general proposition, without further analysis. See the Attorney General's 2003 Brown Act Guide, at 10 ("This exception, which is contained in section 54952.2(c)(4), does not apply when a majority of the members of a parent legislative body attend a meeting of a standing committee of the parent body.")

opinion). The Attorney General concluded “that members of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body ‘as observers.’ Attendance is . . . restricted to watching and listening.” *Id.* at 159. The Attorney General recognized that such “observers” have even fewer rights than members of the general public attending the meetings, since as observers they may make no statements or ask questions. That Office also concluded “that members of the legislative body of a local public agency may not sit in special chairs on the dais while attending a meeting of a standing committee of the legislative body ‘as observers.’” *Id.* at 160.

A. Section 54952.2(c)(6) Applies to Councilmembers Attending Sub-quorum Committee Meetings When Their Attendance Creates a Quorum of the City Council.

Despite the broad language of section 54952.2(c)(6), which seems to apply to *all* standing committees regardless of size, we believe the section’s restrictions are intended to apply only to sub-quorum standing committees, which is consistent with historical norms under the Act. In addition, the restrictions only apply when the presence of a member of a parent body *creates* a quorum of the parent body at the committee meeting. This belief is supported by the legislative history of the section, which was specifically enacted to correct the Attorney General’s 1996 opinion interpreting section 54952.2(c)(4). *See* Sen. Bill 138 Senate Floor Bill Analysis, May 22, 1997. That 1996 opinion was factually limited though, precluding the attendance of legislative body members *only* at *sub-quorum* meetings of a standing committee, when that attendance *created a quorum* of the legislative body.

The 1998 opinion acknowledges that “without the special exemption for ‘observers,’ the mere attendance at the meeting by a quorum of the legislative body would constitute a violation of the Act.” *Id.* at 159. It also acknowledges that if attendees wish a greater degree of participation, they may accomplish that by having the meeting noticed as a meeting of the full legislative body. *Id.* at 158 n 2. While not binding as legal precedent, the opinions of the California Attorney General often carry great weight with the courts, particularly when they interpret the Act and are well-reasoned. *Freedom Newspapers*, 6 Cal. 4th at 829.

Accordingly, we concur in the Attorney General’s 1998 opinion to the extent it applies to attendance of visiting Councilmembers at four-member standing Council Committee meetings, when their attendance creates a quorum of the City Council. Visiting Councilmembers at such Committee meetings may only watch and listen, and may not sit with the Committee members.

However, when the attendance of a Councilmembers at a sub-quorum Committee meeting does *not* create a quorum, for example, if one of the Committee members does not attend the meeting, section 54952.2(c)(6) has no application. On such rare occasions, we recommend the attending Councilmember be given the same rights as the public, and to avoid confusion, to limit his or her actions to those we suggest below may be appropriate for attendance at Committee meetings composed of a quorum of the Council.

B. Section 54952.2(c)(6) Does Not Apply to Councilmembers Attending Committee Meetings Already Composed of a Quorum of the City Council.

In 1998, this Office disagreed with the limitations the Attorney General's 1998 opinion placed on the behavior of visiting Councilmembers attending Council Committee meetings, which then all consisted of five-member Committees. 1998 City Att'y Report at 617. We concluded that "Council members who are not members of the committee should be permitted to comment on a pending matter as would members of the public." *Id.* (footnote omitted). To avoid any confusion about whether the Committee meeting was a meeting of the Council, we recommended that the visiting Councilmembers not sit with the Committee, or participate in the discussion and deliberation of the Committee item. *Id.* at 618.

Albeit for different reasons, we still believe those recommendations are valid for visitors to standing Council Committees composed of a quorum or more of Councilmembers. The notice for each five-member Committee meeting tells the public that a quorum of the City Council is gathering at the meeting. The public is free to attend and participate. The presence of additional Councilmembers at these Committee meetings does not create a quorum without notice to the public, which was a principal concern of the 1998 opinion. Accordingly, we recommend visiting Councilmembers to five-member Council Committee meetings comply with the recommendations in that 1998 report.⁴

CONCLUSION

We conclude that the Ralph M. Brown Act does not prohibit quorum or larger standing Council Committees, and does not require those meetings to be separately noticed as Council meetings, so long as the Committee meeting notice and agenda indicates that a quorum of Councilmembers meets as those Committees.

The level of participation the Act permits visiting Councilmembers at Council Committee meetings is complicated because the City's standing committees are composed of less than a quorum, and a quorum, of Councilmembers. We conclude the Act would likely support the following levels of participation at the different Committee meetings as follows:

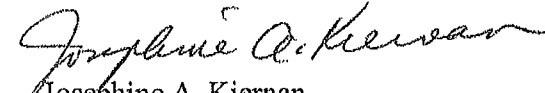
1. At duly noticed five-member Committee meetings, visiting Councilmembers may attend so long as they sit with the general public and may participate as would a member of the general public.
2. At duly noticed four-member Committee meetings, where the presence of a visiting Councilmember *does not create a quorum* of the City Council, for example, when a Committee member is absent, visiting Councilmembers may attend, so long as they sit with the general public, and may participate as would a member of the general public.

⁴ Limiting the participation of visiting Councilmembers to the same behavior as the public at these meetings is also consistent with Council rules prohibiting non-Committee members at any Committee meeting from voting or counting towards the Committee quorum necessary to conduct business. See SDMC § 21.0101.5, Rules 6.4, 6.8 and 6.10.

3. At duly noticed four-member Committee meetings, where the presence of a visiting Councilmember *creates a quorum* of the City Council, visiting Councilmembers may attend, so long as they sit with the general public and attend only as silent observers.

We believe the conclusions in this memorandum are legally supportable. But they have not been tested by a court. The Council may wish to consider making all its Committee the same size, or to adopt a consistent rule for the behavior of visiting Councilmembers at *all* Committee meetings regardless of Committee size that would meet Act requirements. Such a rule could be that visiting Councilmembers may attend any Committee meetings, so long as they sit with the general public and attend only as silent observers. This Office will be happy to assist with any changes needed to conform Committee meeting agendas to the legal principles discussed in this memorandum.

JAN I. GOLDSMITH, CITY ATTORNEY

By 
Josephine A. Kiernan,
Deputy City Attorney

JAK:als
MS-2011-1
cc: Mayor Jerry Sanders
Andrea Tevlin, Independent Budget Analyst



Municipal Code Section 22.0101: Permanent Rules of Council

November 4, 2015



PREVIOUS ACTION TAKEN

Motion by Councilmember Cate requesting that the ordinance and strike-out with all of the requested changes, additions, and clarifications considered and summarized below be brought back to the Charter Review Committee for final review within 60 days.

- Rule 2.1 Request to analyze the possibility of having Council meetings be held on Tuesdays from 9:00 a.m. – 6:00 p.m. with Closed Session at 1:00 p.m.
- Rule 2.3 Strike rule from the Permanent Rules of Council.
- Rule 4.5 Add clarification on responsibilities of the Chair Pro Tem to be the same as the Council President in the absence of the Council President and Council President Pro Tem.
- Rule 6.6 Request that the City Attorney's office work with the Director of Legislative Affairs to prepare language for review by the Committee.
- Rule 6.9.1 Change to clarify that in the event of a tie vote the matter shall be forward to Council without Committee recommendation.
- Rule 6.10 Request the Director of Legislative Affairs to work with interested stakeholders to review and clarify the Committees' Areas of Responsibility.
- Rule 6.10.7 Create a Special Issues Committee that would meet on an as needed basis to cover the Areas of Responsibility currently held under the "additional responsibilities of the Committee Chaired by the Council President."
- Rule 7.3 Agree with a strike-out being prepared for any "Corrected Copy" resolutions or ordinances submitted to the Council President.
- Rule 7.3.2 Agree with directing the City Attorney to clarify within the resolution or ordinance if 6 votes are required for an item.
- Rule 7.6 Agree with moving the supplemental deadline to Thursday at 2:00 p.m.
- Rule 8 Requested representatives from the Mayor's Office, City Attorney's Office, and the Council President's Office meet to discuss a process to coordinate the closed session agenda per Charter Section 270(d).
- Rule 1.6 Add clarification that the Council majority can call an emergency meeting if the Council President and Mayor are unavailable to call such meeting. Additionally add reference to Municipal Code Section 5.01 regarding Public Emergency Procedures.
- Rule 6.10.5 The Committee on Budget and Government Efficiency shall be composed of four members and clarify all Council Committees shall consist of 4 members.
- Rule 2.4.2 Add language "not to exceed 120 days."
- Rule 2.11.1 Change "day" to "meeting."
- Rule 3.4 Add language to read, "as deemed necessary by the Council or as legally required."

Second by Councilmember Emerald.



RULE 2.1: Agenda

2012

Amount of Council Meetings	# of meetings adjourned	# of special meetings called
68	7	3

2013

Amount of Council Meetings	# of meetings adjourned	# of special meetings called
61	12	7

2014

Amount of Council Meetings	# of meetings adjourned	# of special meetings called
64	5	5

2015

Amount of Council Meetings	# of meetings adjourned	# of special meetings called
68	8	2



Rule 2.2: Order of Business

Tuesday at 10:00 a.m.

1. Roll Call
2. Pledge of Allegiance
3. Consent Items
4. Proclamations/Ceremonial Items
5. Special Orders of Business
6. Items pulled from Consent
7. Non-agenda Public Comment



Rule 2.8: Parliamentary Procedure

QUESTION PRESENTED

Are the Council President or Council Committee Chairs precluded from making a motion on an item?

SHORT ANSWER

No. Neither the Permanent Rules of Council, nor Robert's Rule of Order Newly Revised (Robert's Rules), preclude the Council President at City Council or a Council Committee chairperson at Committee from making a motion on an item.



Rule 6.10: Committee Composition and Responsibilities

- **The Committee on Economic Development and Intergovernmental Relations:**
 - Added: Tourism Marketing District ,Economic Development , Incentive Programs, and Regulatory Relief Programs
 - Removed: City Permits and Regulations, Prevailing Wage, Living Wage, and Enterprise Zones
- **The Committee on Smart Growth and Land Use:**
 - Added: Real Estate Assets Department, Municipal Airports, Parking, Coastal Overlay Zone, ADA Compliance and Accessibility
 - Removed: Sale and Lease of Property
- **The Committee on the Environment:**
 - Added: Environmental Policy and Environmental Services
- **The Committee on Public Safety and Livable Neighborhoods:**
 - Added: Gang Prevention and Intervention , Citizens Review Board on Police Practices
 - Removed: Parking Regulations and Enforcement



Rule 6.10: Committee Composition and Responsibilities

- **The Committee on Budget and Government Efficiency:**
 - Added: Corporate Partnerships and Development ,Fleet Services, Risk Management, Prevailing Wage, Living Wage
 - Removed: Tourism Marketing District and Management of City Office Space
- **The Committee on Infrastructure:**
 - Added: Public Works and ADA CIP Projects
- **The Committee on Rules:**
 - Permanent Rules of Council, City Charter, Open Government ,Elections and Ballot Measures, Annexations, Boards and Commissions, Council Initiated Matters , Communications, Customer Service, Public Outreach ,Committee Composition and Responsibilities



Rule 6.10.7: Committee on Rules

- Five member standing committee
- Added responsibility of “Council Initiated Items”
- Per rule 7.1, this would only be a tool for any Councilmember who is not a member of the committee with the assigned responsibility for the subject matter to initiate a Request for Council Action through the Committee review process.



Further Clarifications

- Rule 2.3: Special Orders of Business, including striking any process for an “item held in committee”
- Rule 6.5.3, add “operational”
- Rule 4.2, Selection of the Council President
- Rule 8, was updated to reflect current state law